



House of Representatives

File No. 631

General Assembly

February Session, 2012

(Reprint of File No. 173)

Substitute House Bill No. 5143
As Amended by House Amendment
Schedule "A"

Approved by the Legislative Commissioner
May 4, 2012

AN ACT CONCERNING INSURANCE COVERAGE FOR PERISHABLE FOOD DONATED BY CERTAIN FOOD ESTABLISHMENTS.

Be it enacted by the Senate and House of Representatives in General
Assembly convened:

1 Section 1. (NEW) (*Effective October 1, 2012*) (a) (1) Subject to the
2 provisions of subsection (b) of this section, any insurer that delivers,
3 issues for delivery, renews, amends or continues in this state a
4 commercial risk insurance policy or rider to such policy that provides
5 coverage for the spoilage of perishable food shall provide coverage to
6 the same extent for perishable food that is donated to a temporary
7 emergency shelter operated or supervised by a municipality or the
8 state during a state of emergency for a limited time period, if: (A) The
9 Governor proclaims that a state of emergency exists; (B) as a result or
10 as part of such emergency, an electrical outage or interruption of
11 electrical service to an insured under such policy or rider has occurred
12 and is forecast by the electric supplier for such insured to last longer
13 for the insured location than the time period prescribed by the
14 Department of Public Health or local director of health, or an
15 authorized agent thereof, for the safe handling of perishable food; (C)

16 such perishable food is donated prior to the expiration of the time
17 period described in subparagraph (B) of this subdivision; and (D) the
18 insured provides to the insurer written documentation from such
19 shelter that states the date and time of such donation.

20 (2) The provisions of subdivision (1) of this subsection shall apply to
21 an insurance policy or rider delivered, issued for delivery, renewed,
22 amended or continued in this state for a food establishment classified
23 as class III or class IV pursuant to regulations adopted under section
24 19a-36 of the general statutes.

25 (b) No such food establishment shall donate perishable food
26 pursuant to subdivision (1) of subsection (a) of this section if (1) the
27 Department of Public Health or a local director of health, or an
28 authorized agent thereof, has embargoed or ordered destroyed such
29 perishable food, (2) the Department of Consumer Protection or its
30 authorized agent has deemed such perishable food adulterated, as
31 defined in section 21a-101 of the general statutes, or (3) such perishable
32 food is not fit for human consumption.

33 (c) To the extent a tax deduction or tax credit is allowed under state
34 law for a donation made pursuant to this section, no food
35 establishment that donates perishable food in accordance with the
36 provisions of this section and receives payment from an insurer for
37 such donation shall avail itself of a tax deduction or tax credit for the
38 amount of such payment.

39 Sec. 2. Section 52-557l of the general statutes is repealed and the
40 following is substituted in lieu thereof (*Effective October 1, 2012*):

41 (a) Notwithstanding any provision of the general statutes, any
42 person, including but not limited to a seller, farmer, processor,
43 distributor, wholesaler or retailer of food, who donates an item of food
44 for use or distribution by a nonprofit organization or nonprofit
45 corporation and any nonprofit organization or nonprofit corporation
46 that collects donated food and distributes such food to other nonprofit
47 organizations or nonprofit corporations free of charge or for a nominal

48 fee shall not be liable for civil damages or criminal penalties resulting
49 from the nature, age, condition or packaging of the food, unless it is
50 established that the donor, at the time of making the donation, or the
51 nonprofit organization or nonprofit corporation, at the time of
52 distributing the food, knew or had reasonable grounds to believe that
53 the food was (1) adulterated, as defined in section 21a-101, or (2) not fit
54 for human consumption.

55 (b) Notwithstanding any provision of the general statutes, any food
56 establishment classified as class III or class IV pursuant to regulations
57 adopted under section 19a-36, that donates perishable food for use or
58 distribution by a temporary emergency shelter in accordance with the
59 provisions set forth in section 1 of this act shall not be liable for civil
60 damages or criminal penalties resulting from the nature, age, condition
61 or packaging of the food, unless it is established that the donor, at the
62 time of making the donation, knew or had reasonable grounds to
63 believe that the food was (1) embargoed or ordered destroyed by the
64 Department of Public Health or a local director of health, or an
65 authorized agent thereof, (2) adulterated, as defined in section 21a-101,
66 or (3) not fit for human consumption.

This act shall take effect as follows and shall amend the following sections:		
Section 1	October 1, 2012	New section
Sec. 2	October 1, 2012	52-557l

The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

OFA Fiscal Note

State Impact: None

Municipal Impact: None

Explanation

The bill has no state or municipal fiscal impact as it concerns private commercial risk insurance coverage.

House "A" made technical and clarifying changes that had no fiscal impact.

The Out Years

State Impact: None

Municipal Impact: None

OLR Bill Analysis**sHB 5143 (as amended by House "A")*****AN ACT CONCERNING INSURANCE COVERAGE FOR PERISHABLE FOOD DONATED BY CERTAIN FOOD ESTABLISHMENTS.****SUMMARY:**

This bill requires insurers that sell commercial risk insurance policies or riders that cover food spoilage to cover to the same extent donations of perishable food to temporary emergency shelters, under certain circumstances and subject to several limitations. The requirement applies to a policy or rider delivered, issued for delivery, renewed, amended, or continued in this state for a class III or class IV food establishment under the public health code (e.g., grocery stores and restaurants).

The bill exempts a food establishment that makes a donation under these provisions from liability for civil damages or criminal penalties resulting from the food's nature, age, condition, or packaging, unless it is established that the donor, when making the donation, knew or had reasonable grounds to believe that the food was (a) embargoed or ordered destroyed by the Department of Public Health (DPH), a local health director, or are authorized agent, (b) adulterated, or (c) not fit for human consumption.

To the extent a tax deduction or tax credit is allowed under state law for such donations, no food establishment that donates perishable food under the bill and receives payment from an insurer for the donation may claim the tax deduction or credit for the amount of the payment.

*House Amendment "A" adds the requirement that the insured gives the insurer written documentation from the shelter indicating the

date and time of the donation and eliminates a provision maintaining the donor's liability if the shelter knew or had reason to believe the food was unsuitable when it was distributed.

EFFECTIVE DATE: October 1, 2012

INSURANCE COVERAGE OF DONATED FOOD

Under the bill, any insurer that delivers, issues for delivery, renews, amends, or continues a commercial risk insurance policy or rider in the state that covers the spoilage of perishable food must provide coverage to the same extent for perishable food donated to a temporary emergency shelter operated or supervised by a municipality or the state during a state of emergency for a limited time, if:

1. the governor proclaims a state of emergency;
2. as a result or as part of the emergency, an electrical outage or interruption of electrical service to the insured has occurred and the insured's electric supplier forecasts that the outage will last longer than the period prescribed by DPH, the local health director, or an authorized agent for the safe handling of perishable food;
3. the food is donated while it is still safe to handle; and
4. the insured gives the insurer-written documentation from the shelter indicating the date and time of the donation.

The food establishment may not donate the food if (1) DPH, the local health director, or an authorized agent has embargoed or ordered it destroyed; (2) the Department of Consumer Protection or its authorized agent has deemed the food to be adulterated; or (3) the food is not fit for human consumption.

COMMITTEE ACTION

Insurance and Real Estate Committee

Joint Favorable Substitute

Yea 16 Nay 3 (03/15/2012)

Judiciary Committee

Joint Favorable

Yea 25 Nay 11 (04/10/2012)

Public Health Committee

Joint Favorable

Yea 24 Nay 1 (04/24/2012)